



violation of 18 U.S.C. § 371 and Money Laundering, in violation of 18 U.S.C. § 1957.<sup>1</sup>

In light of Defendant's fraudulent scheme, which he has admitted to and been convicted for, and which he misrepresented and concealed throughout his naturalization proceedings, he was ineligible for naturalization and thus procured his citizenship unlawfully. Accordingly, as shown below, Defendant unlawfully naturalized and this Court must order the denaturalization of Defendant.

## **II. PARTIES, JURISDICTION, AND VENUE**

1. This is an action filed under 8 U.S.C. § 1451(a) to revoke and set aside the decision admitting Defendant to U.S. citizenship and to cancel Defendant's Certificate of Naturalization No. 27788499.

2. This Court has subject matter jurisdiction pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. § 1345.

3. Venue is proper in this district under 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391, because Defendant can be found in and resides in this District.

4. Plaintiff is the United States of America, suing on behalf of itself.

5. Defendant was born in Argentina, and is a naturalized U.S. citizen.

Defendant's last known address of residence is in Miami, Florida.

## **III. FACTUAL BACKGROUND**

6. The affidavit of David Jansen, a Special Agent with U.S. Immigration and Customs Enforcement, an agency within the U.S. Department of Homeland Security,

---

<sup>1</sup> The Money Laundering offense occurred on or about September 8, 2008, outside of the statutory period required for establishing eligibility for naturalization, and thus does not serve as a basis for this denaturalization action.

showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached as Exhibit A.

A. Defendant's Fraud Scheme & Federal Conviction

7. Between at least April 2003 until May 2009, Defendant was the owner of Texon, Incorporated ("Texon"). Texon was headquartered in Miami, Florida, and was an exporting company that was in the business of purchasing U.S. goods on behalf of clients in the Caribbean, Central America, South America, and other foreign countries, and shipping those goods overseas. Between at least April 2003 and May 2009, the office manager of Texon was Norma Borgono ("Borgono").<sup>2</sup> *See* Statement of the Offense, *United States v. Mondino*, No. 1:10-cr-00141-BAH (D.D.C. 2010), ECF No. 12 ¶ 1 (attached as Exhibit B).

8. From at least April 2003 until May 2009, Defendant, Borgono, and others conspired: (1) to obtain from the Ex-Im Bank more than \$24 million in fraudulent loan transactions in which Texon acted as the "exporter"; (2) to falsify documents sent to U.S. banks and to the Ex-Im Bank; and (3) to misappropriate \$14.1 million in loan proceeds that were guaranteed by the Ex-Im Bank. *Id.*

9. Specifically, between at least April 2003 and May 2009, Defendant and Borgono agreed to prepare, and did prepare, false applications for insurance or guarantees that would be submitted to the Ex-Im Bank in order to induce the Ex-Im Bank to insure

---

<sup>2</sup> Although the Statement of the Offense references the office manager as co-conspirator 2 ("CC-2"), Borgono's identity was later revealed when she, too, was charged with, and convicted of, Conspiracy to Defraud the United States and to Commit Mail Fraud in violation of 18 U.S.C. § 371. *See, e.g.,* Office of Inspector General, *Former Office Manager for Miami Export Company Sentenced for Her Role in Defrauding Export Import Bank of the United States*, EXPORT-IMPORT BANK OF THE UNITED STATES (May 15, 2012), <https://www.exim.gov/sites/default/files/oig/Borgono-Sentencing-120515.pdf>.

or guarantee approximately \$24 million of loans to the debtors from commercial banks, knowing and intending that all or some of the goods identified on the applications would not be purchased and/or would not be shipped to the debtor. *Id.* ¶¶ 2-8; *see also* Information, *United States v. Mondino*, No. 1:10-cr-00141-BAH (D.D.C. 2010), ECF No. 1 ¶ 8 (attached as Exhibit C).

10. At Defendant's instruction, Borgono prepared false documents stating that U.S. goods had been or would be purchased and shipped to the foreign buyers, and then Borgono submitted those documents to the Ex-Im Bank through various lending banks. *See* Ex. B. ¶ 6.

11. Borgono prepared, or caused to be prepared, at the direction of Defendant, false documents for submission to the U.S. banks or the Ex-Im Bank, including false commercial invoices, bills of lading, and Ex-Im Bank "Form of Exporter's Certificates," stating that certain goods had been purchased and had been or would be shipped, but knowing that they had not been and would not be purchased and/or shipped. *Id.*

12. Defendant and Borgono knew at the time the loan applications were submitted to the Ex-Im Bank that they falsely reported to lending banks the purchase and export of U.S. goods to foreign buyers. *Id.* ¶¶ 6-7.

13. Between at least April 2003 and May 2009, the Ex-Im Bank issued insurance or guarantees on more than \$24 million worth of fraudulent loans based on applications submitted to the Ex-Im Bank, including false statements made by Defendant and Borgono, or at their direction. *Id.* ¶ 8.

14. Defendant commingled the loan proceeds with personal and other monies. Texon, and its related entities, retained approximately \$2.5 million of the proceeds of the

Ex-Im Bank-insured or guaranteed loans. Defendant retained approximately \$170,000 of the loan proceeds for his own benefit and use. *Id.* ¶ 10.

15. Defendant also transferred approximately \$6.4 million of the loan proceeds to bank accounts controlled by his co-conspirators. *Id.* ¶ 11.

16. Between April 2003 and October 1, 2011, the Ex-Im Bank paid more than \$15.9 million to lending banks or their assignees based on claims on guaranteed loans that had gone into default. As of April 1, 2010, more than \$12.5 million of the amounts paid on claims for defaulted loans remained unrecovered. *Id.* ¶ 13.

17. On May 27, 2010, Defendant was charged by Criminal Information with Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371, and one count of Money Laundering, in violation of 18 U.S.C. § 1957. *See* Ex. C.

18. On June 23, 2010, Defendant pled guilty in the U.S. District Court for the District of Columbia to one count of Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371, and one count of Money Laundering, in violation of 18 U.S.C. § 1957. *See* Plea Agreement, *United States v. Mondino*, No. 1:10-cr-00141-BAH (D.D.C. 2010), ECF No. 11 (attached as Exhibit D); *see also* Judgment, *United States v. Mondino*, No. 1:10-cr-00141-BAH (D.D.C. 2011), ECF No. 28 (attached as Exhibit E).

19. On November 1, 2011, Defendant was sentenced to concurrent terms of forty-six months of imprisonment on each count and concurrent terms of thirty-six months of supervised release on each count upon release from prison. Defendant was ordered to pay restitution in the amount of \$13,349,708.20 to the victim, the Ex-Im Bank.

Defendant was also ordered to forfeit \$2,718,695, which constituted proceeds of the conspiracy offense to which he pled guilty. *See* Ex. E.

B. Defendant's Naturalization Application and Oath Ceremony

20. At the same time Defendant was engaged in his conspiracy to misappropriate funds from the Ex-Im Bank, he applied to naturalize and become a U.S. citizen, maintaining that he possessed the requisite good moral character.

21. On or about May 12, 2003, Defendant filed a Form N-400, Application for Naturalization ("Naturalization Application") with U.S. Citizenship and Immigration Services ("USCIS"). *See* Form N-400, Application for Naturalization (attached as Exhibit F).

22. In his Naturalization Application, Defendant checked "No" in response to part 10, question 15, which asked: "Have you **EVER** committed a crime or offense for which you were NOT arrested?" *Id.* at 8 (emphasis in original).

23. On or about May 5, 2003, Defendant signed the naturalization application under penalty of perjury, thereby certifying that his answers to the questions therein were true and correct.

24. On April 22, 2004, Susanna David, an officer with USCIS, orally interviewed Defendant regarding his Naturalization Application to determine his eligibility for naturalization.

25. At the beginning of the interview, Officer David placed Defendant under oath.

26. During the interview, Officer David asked Defendant, consistent with part 10, question 15 of Defendant's Naturalization Application, whether he had ever committed a crime or offense for which he was not arrested.

27. Defendant verbally confirmed his written response, stating that he had never committed a crime or offense for which he had not been arrested.

28. Defendant's testimony regarding his commission of a crime or offense was false.

29. At his naturalization interview, Defendant did not disclose his ongoing criminal conduct creating and submitting fraudulent loan applications to lending banks affiliated with the Ex-Im Bank for which more than \$24 million in Ex-Im Bank-insured loan proceeds were received.

30. In fact, at no point during the naturalization process did Defendant disclose to USCIS his recent conduct conspiring to defrauding the Ex-Im Bank, which was then ongoing.

31. At the end of the interview, Defendant again signed the Naturalization Application in the presence of Officer David and swore that the contents of his application, including eleven numbered changes, were true and correct to the best of his knowledge.

32. Based upon the information supplied by Defendant in his Naturalization Application, and the sworn answers he gave during his April 22, 2004 naturalization interview, USCIS approved the application.

33. Defendant received a Notice of Naturalization Oath Ceremony ("Oath Notice"), which indicated his naturalization oath ceremony would take place on May 10,

2004, in Miami Beach, Florida. *See* Form N-445, Notice of Naturalization Oath Ceremony (attached as Exhibit G).

34. The following instructions appear on the Oath Notice:

In connection with your application for naturalization, please answer each of the questions by checking “Yes” or “No”. You should answer these questions the day you are to appear for the citizenship oath ceremony. These questions refer to actions since the date you were first interviewed on your Application for Naturalization. They do not refer to anything that happened before that interview.

After you have answered every question, sign your name and fill in the date and place of signing, and provide your current address.

You must bring this completed questionnaire with you to the oath ceremony, as well as the documents indicated on the front, and give them to the Immigration employee at the oath ceremony. You may be questioned further on your answers at that time.

*See* Exhibit G at 2 (emphasis in original).

35. Defendant answered “No” in response to Question 3 on the Oath Notice, which asked: “AFTER the date you were first interviewed on your Application for Naturalization, Form N-400: . . . Have you knowingly committed any crime or offense, for which you have not been arrested [ ]?”

36. Defendant signed the Oath Notice, certifying that “each of the answers shown above were made by me or at my direction, and that they are true and correct.”

37. On May 10, 2004, Defendant took the Oath of Allegiance and became a U.S. citizen. He was issued Certificate of Naturalization No. 27788499. *See* Form N-550, Certificate of Naturalization (attached as Exhibit H).

#### **IV. GOVERNING LAW**

A. Congressionally imposed prerequisites to the acquisition of citizenship.

38. No alien has a right to naturalization “unless all statutory requirements are complied with.” *United States v. Ginsberg*, 243 U.S. 472, 474-75 (1917). Indeed, the Supreme Court has underscored that “[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship.” *Fedorenko v. United States*, 449 U.S. 490, 506 (1981); *see also id.* (“An alien who seeks political rights as a member of the Nation can rightfully obtain them only upon the terms and conditions specified by Congress.”) (quoting *Ginsberg*, 243 U.S. at 474)).

39. Among other requirements, Congress has mandated that an individual may not naturalize unless that person “during all periods referred to in this subsection has been and still is a person of good moral character . . . .” 8 U.S.C. § 1427(a)(3). The required statutory period for good moral character begins five years before the date the applicant files the application for naturalization, and it continues until the applicant takes the oath of allegiance and becomes a U.S. citizen. *See id.*

40. Although Congress has not specifically defined what constitutes good moral character for naturalization purposes, the Immigration and Nationality Act lists certain classes of applicants who cannot be found to have the requisite good moral character. *See* 8 U.S.C. § 1101(f).

41. As a matter of law, an applicant necessarily lacks good moral character if he or she commits a crime involving moral turpitude (“CIMT”) during the statutory period and later either is convicted of the crime or admits his or her commission of the criminal activity. *See* 8 U.S.C. § 1101(f)(3) (cross-referencing 8 U.S.C. § 1182(a)(2)(A)); 8 C.F.R. § 316.10(b)(2)(i) (providing that an applicant “shall be found

to lack good moral character” if, for example, they committed and were convicted of one or more crimes involving moral turpitude).

42. Congress has also explicitly precluded individuals who give false testimony for the purpose of obtaining immigration benefits from being able to establish the good moral character necessary to naturalize. *See* 8 U.S.C. § 1101(f)(6).

43. Further, Congress created a “catch-all” provision, which states, “[t]he fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.” 8 U.S.C. § 1101(f).

44. Thus, individuals who commit unlawful acts adversely reflecting upon their moral character cannot meet the good moral character requirement, unless they prove that extenuating circumstances existed. *See* 8 C.F.R § 316.10(b)(3)(iii); 8 U.S.C. § 1101(f).

45. “[A] conviction during the statutory period is not necessary for a finding that an applicant lacks good moral character . . . it is enough that the offense was ‘committed’ during that time.” *United States v. Zhou*, 815 F.3d 639, 644 (9th Cir. 2016) (quoting *United States v. Suarez*, 664 F.3d 655, 661 (7th Cir. 2011)).

46. Thus, an individual unlawfully procured naturalization if he committed unlawful acts during the statutory period before he was naturalized, even if he was convicted of those crimes after he was granted citizenship. *See United States v. Jean-Baptiste*, 395 F.3d 1190, 1193-94 (11th Cir. 2005), *cert. denied*, 546 U.S. 852 (2005).

#### B. The Denaturalization Statute

47. Recognizing that there are situations where an individual has naturalized despite failing to comply with all congressionally imposed prerequisites to the acquisition

of citizenship or by concealing or misrepresenting facts that are material to the decision on whether to grant his or her naturalization application, Congress enacted 8 U.S.C. § 1451.

48. Under 8 U.S.C. § 1451(a), this Court must revoke an order of naturalization and cancel the individual's Certificate of Naturalization if his or her naturalization was *either*:

- i. illegally procured, *or*
- ii. procured by concealment of a material fact or by willful misrepresentation.

49. Failure to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship renders the citizenship "illegally procured." *Fedorenko*, 449 U.S. at 506.

50. Where the government establishes that the defendant's citizenship was procured illegally or by willful misrepresentation of material facts, "district courts lack equitable discretion to refrain from entering a judgment of denaturalization." *Fedorenko*, 449 U.S. at 517.

## V. CAUSES OF ACTION

### COUNT I

#### **ILLEGAL PROCUREMENT OF NATURALIZATION** **LACK OF GOOD MORAL CHARACTER** **(CRIMES INVOLVING MORAL TURPITUDE)**

51. The United States re-alleges and incorporates by reference the foregoing paragraphs.

52. As discussed above, to be eligible for naturalization an applicant must show that he has been a person of good moral character for the five-year statutory period before he files a Naturalization Application, and until the time he becomes a naturalized U.S. citizen. *See* 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1). Thus, Defendant was required to establish that he was a person of good moral character from May 12, 1998, until the date he became a U.S. citizen, on May 10, 2004 (the “statutory period”).

53. Defendant was statutorily precluded from establishing the good moral character necessary to naturalize because he committed a CIMT during the statutory period. *See* 8 U.S.C. § 1101(f)(3); 8 C.F.R. § 316.10(b)(2)(i).

54. As set forth above, Defendant conspired to obtain from the Ex-Im Bank more than \$24 million in fraudulent loan transactions by falsifying documents sent to U.S. banks and to the Ex-Im Bank.

55. Defendant pled guilty to Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371.

56. Defendant committed that crime and underlying fraud during the statutory period.

57. Defendant’s conviction under 18 U.S.C. § 371, as a fraud related offense, constitutes a CIMT. *See Jordan v. De George*, 341 U.S. 223, 229 (1951) (“American

courts have, without exception, included [fraud] crimes within the scope of moral turpitude.”).

58. Because Defendant committed a CIMT during the statutory period, to which he later admitted and for which he was convicted, Defendant was barred under 8 U.S.C. § 1101(f)(3) from showing that he had the good moral character necessary to become a naturalized U.S. citizen.

59. Because Defendant committed a CIMT and was therefore not a person of good moral character, he was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

60. Because he was ineligible to naturalize, Defendant illegally procured his citizenship, and this Court must revoke his citizenship, as provided for by 8 U.S.C. § 1451(a).

## COUNT II

### ILLEGAL PROCUREMENT OF NATURALIZATION LACK OF GOOD MORAL CHARACTER (UNLAWFUL ACTS)

61. The United States re-alleges and incorporates by reference the foregoing paragraphs.

62. As noted above, to be eligible for naturalization, Defendant was required to establish that he was a person of good moral character from May 12, 1998, until the date he became a U.S. citizen, on May 10, 2004 (the “statutory period”). *See* 8 U.S.C. § 1427(a)(3).

63. Defendant could not establish the requisite good moral character for naturalization because he committed unlawful acts during the statutory period that

reflected adversely on his moral character and there were no extenuating circumstances.

8 U.S.C. § 1101(f); 8 C.F.R. § 316.10(b)(3)(iii).

64. Specifically, as set forth above, between at least April 2003 until or about May 2009, Defendant and a co-conspirator conspired: 1) to obtain from the Ex-Im Bank more than \$24 million in fraudulent loan transactions in which Defendant's company, Texon, acted as the "exporter"; 2) to falsify documents sent to U.S. banks and to the Ex-Im Bank; and 3) to misappropriate \$14.1 million in loan proceeds that were guaranteed by the Ex-Im Bank.

65. On June 23, 2010, Defendant pled guilty in the U.S. District Court for the District of Columbia to one count of Conspiracy to Defraud the United States and to Commit Mail Fraud in violation of 18 U.S.C. § 371.

66. Defendant committed these crimes and the underlying fraud during the statutory period.

67. Defendant cannot establish extenuating circumstances with regard to the conspiratorial conduct and fraudulent acts underlying his guilty plea under 18 U.S.C. § 371. He therefore cannot avoid the regulatory bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii).

68. The regulatory "unlawful acts" bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii) applies to Defendant regardless of whether the statutory CIMT bar (set forth in Count I) also applies to him.

69. Defendant's fraudulent conduct precluded him from establishing good moral character, rendering him ineligible for naturalization at the time he took the oath of allegiance. *See* 8 C.F.R. § 316.10(b)(3)(iii).

70. Because Defendant was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his citizenship, as provided for by 8 U.S.C. § 1451(a).

**COUNT III**  
**ILLEGAL PROCUREMENT OF NATURALIZATION**  
**LACK OF GOOD MORAL CHARACTER**  
**(FALSE TESTIMONY)**

71. The United States re-alleges and incorporates by reference the foregoing paragraphs.

72. As discussed above, to be eligible for naturalization, Defendant was required to establish that he was a person of good moral character from May 12, 1998, until the date he became a U.S. citizen, on May 10, 2004 (the “statutory period”). *See* 8 U.S.C. § 1427(a)(3).

73. Defendant was statutorily precluded from showing that he was a person of good moral character because he gave false testimony, under oath during the statutory period, for the purpose of obtaining an immigration benefit, specifically naturalization. 8 U.S.C. § 1101(f)(6); 8 C.F.R. § 316.10(b)(2)(vi).

74. As set forth above, during the statutory period, Defendant provided false testimony for the purpose of obtaining an immigration benefit when he swore, under oath, during his April 22, 2004 naturalization interview, that his answer to part 10, question 15 was true to the best of his knowledge, and that he had never committed a crime or offense for which he had not been arrested.

75. Because Defendant provided false testimony under oath for the purpose of obtaining his naturalization, he was barred under 8 U.S.C. § 1101(f)(6) from showing that he had the good moral character necessary to become a naturalized U.S. citizen.

76. Because Defendant was not a person of good moral character, he was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

77. Because he was ineligible to naturalize, Defendant illegally procured his citizenship, and this Court must revoke his citizenship, as provided for by 8 U.S.C. § 1451(a).

#### **COUNT IV**

#### **PROCUREMENT OF U.S. CITIZENSHIP BY CONCEALMENT OF A MATERIAL FACT OR WILLFUL MISREPRESENTATION**

78. The United States re-alleges and incorporates by reference the foregoing paragraphs.

79. Under 8 U.S.C. § 1451(a), this Court must revoke Defendant's citizenship and cancel his Certificate of Naturalization because he procured his naturalization by concealment of a material fact and by willful misrepresentation.

80. As set forth above, throughout the naturalization process, Defendant willfully misrepresented and concealed his involvement in an ongoing criminal conspiracy to obtain more than \$24 million in fraudulent loan transactions from the Ex-Im Bank, for which he later pleaded guilty in the U.S. District Court for the District of Columbia to one count of Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371.

81. Specifically, Defendant represented on his Naturalization Application, during his naturalization interview, and on his Oath Notice that he had never knowingly committed any crime or offense for which he had not been arrested, despite knowing that such representations were false and misleading. Accordingly, Defendant made these representations willfully.

82. Defendant's misrepresentations were material to his naturalization because the disclosure of his fraudulent scheme would have had a natural tendency to influence USCIS's decision whether to approve Defendant's Naturalization Application. Had Defendant disclosed the truth about his conduct, his statutory ineligibility for naturalization would have been disclosed, and USCIS would not have approved his application or administered the oath of allegiance.

83. Defendant thus procured his naturalization by willful misrepresentation and concealment of material facts, and this Court must revoke his citizenship pursuant to the requirements of 8 U.S.C. § 1451(a).

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, the United States of America, respectfully requests:

1. A declaration that Defendant illegally procured his citizenship;
2. A declaration that Defendant procured his citizenship by concealment and willful misrepresentation of material facts;
3. Judgment revoking and setting aside Defendant's naturalization and canceling Certificate of Naturalization No. 27788499, effective as of the original date of the order and certificate, May 10, 2004;
4. Judgment forever restraining and enjoining Defendant from claiming any rights, privileges, benefits, or advantages related to U.S. citizenship;
5. Judgment requiring Defendant to surrender and deliver, within ten (10) days of the entry of judgment against him, his Certificate of Naturalization, and any copies thereof in his possession – and to make good faith efforts to recover and

immediately surrender any copies thereof that he knows are in the possession of others – to the Attorney General, or his representative, including undersigned counsel;

6. Judgment requiring Defendant to surrender and deliver, within ten (10) days of the entry of judgment against him, any other indicia of U.S. citizenship (including, but not limited to, U.S. passports, voter registration cards, and other voting documents), and any copies thereof in his possession – and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession of others – to the Attorney General, or his representative, including undersigned counsel; and

7. Judgment granting the United States such other relief as may be lawful and proper in this case.

Dated: May 8, 2018

BENJAMIN G. GREENBERG  
United States Attorney  
Southern District of Florida

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General  
Civil Division

WILLIAM C. PEACHEY  
Director, District Court Section  
Office of Immigration Litigation

TIMOTHY M. BELSAN  
Deputy Chief, National Security &  
Affirmative Litigation Unit  
Office of Immigration Litigation

WILLIAM C. SILVIS  
Assistant Director  
Office of Immigration Litigation

/s/ Michael A. Celone  
MICHAEL A. CELONE  
Trial Attorney, District Court Section  
Office of Immigration Litigation  
Civil Division  
U.S. Department of Justice  
P.O. Box 868, Ben Franklin Station  
Washington, DC 20044  
(202) 305-2040; (202) 307-8781 (fax)  
Michael.A.Celone@usdoj.gov

Attorneys for Plaintiff  
United States of America